(26)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI JAGDISH BHALLA, Ag.CJ

Writ Petition (C) No. 3835 of 2007

PETITIONERS PLAINTIFFS

1. Rajkumar Modi, adopted father Prakash Chand Modi, aged about 25 year, R/o Main Road, Korba, Tah. & Distt. Korba (C.G.)
2. Mrs. Abhilasha Mati D/o Prakash Chand Modi, aged about 26 year, R/o Korba, Tah. & Distt. Korba, P.O.-Korba (C.G.)
3. Mrs. Ganga Devi Modi, W/o. Late Shri Prakash Chand Modi, aged about 50 years, Main Road, Korba, Tah. & Distt. Korba, P.O. Korba (C.G.)
4. Ashok Kumar Modi S/o Kishan Lal Modi, aged about 42 years, Caste- Agrawal, Occupation – Business, R/o Main Road, Korba, Tah. & Distt. Korba, Korba (C.G.)
5. Sanjay Kumar Modi S/o Kishan Lal Modi, aged about 39 years, Caste – Agrawal, Occupation – Business, R/o Main Road, Korba, Tah. & Distt. Korba, Korba (C.G.)
6. Raja Modi, S/o Kishan Lal Modi, aged about 24 years, Caste – Agrawal, Occupation – Business, R/o Main Road, Korba, Tah. & Distt. Korba, Korba (C.G.)
7. Mrs. Raj Kumari Devi D/o Kishan Lal Modi, W/o Ganesh Prasad Agrawal, aged about 47 years, Caste – Agrawal, R/o Raigarh (C.G.)
8. Mrs. Vijay Laxmi Goyanka, D/o Kishan Lal Modi, W/o Om Prakash Goyanka, aged about 45 years, Caste – Agrawal, R/o Gurhiyari, Raipur (C.G.)
9. Mrs. Meera Goyanka, D/o Kishan Lal Modi & W/o Anjani Kumar Goyanka, aged about 43 years, Caste – Agrawal, Occupation – House wife, R/o Samta Colony, Raipur (C.G.)
10. Mrs. Asha Banshal, D/o Kishan Lal Modi & W/o Sudhir Bansal, aged about 37 years, Caste – Agrawal, Occupation- House wife, R/o Durg (C.G.)
11. Mrs. Shyama Agrawal, D/o Kishan Lal Modi & W/o. Pradeep Kumar Agrawal, aged about 35 years, R/o Tata Nagar, 33 Dendle Enclave Kadma; Jamshedpur
12. Mrs. Meena Agrawal, D/o Kishan Lal Modi & W/o. Dilip Kumar Agrawal, aged

about 30 years, Caste-Agrawal, R/o Raurkela (Orissa)

13. Mrs. Manju Agrawal D/o Kishan Lal Modi & W/o Anil Kumar Agrawal, aged about 29 years, R/o Jawahar Nagar, Raipur (C.G.)
14. Mrs. Sangeeta Agrawal, D/o Kishan Lal Modi, aged about 26 years, Caste – Agrawal, R/o Raurkela (Orissa)

VERSUS

RESPONDENTS

1. Mrs. Narbadi Bai Wd/o. Rekh Chandra, aged about 60 years, D/o Mrs. Laxmi Devi Modi, R/o Beer Mitrapur, Distt. –Singh Bhumi (Orissa)
2. Mrs. Savitri Devi Agrawal, Wd/o. Phul Chandra Agrawal, aged about 54 years, D/o mrs. Laxmi Devi modi, R/o Jugal Pan Bhandara, Main Road, Korba, Tah. & Distt. Korba (C.G.)
3. Radhey Shyam aged about 30 years, S/o Dhanraj, Occupation- Business, Resident Place – Champa, Tah. Janjgeer, Distt. Bilaspur (C.G.)
4. Bisanmbher Lal, aged about 28 years, S/o Dwarika Das, Occupation – Business, Resident Place – Korba, Tah. Katghora, Distt. – Bilaspur (C.G.)
5. Bhagwan Das, aged about 24 years, S/o Dwarika Das, Occupation – Business, Resident Place – Korba, Tah. Katghora, Distt. Bilaspur (C.G.)
6. Shushil Kumar, aged about 44 years, S/o Radhey Shyam, Resident Place – Champa, Tah. Janjgeer, Distt. Bilaspur (C.G.)

Writ Petition under Article 227 of the Constitution of India

Present: Shri Sudhir Verma, counsel for the petitioners.

ORAL ORDER
(Passed on 04th July, 2007)

The petitioners have approached this Court against the order passed by the Trial Court for amendment of written statement. Learned counsel for the petitioners submits that defendant/respondent No. 5 cannot take plea of gift if he is relying upon will. Further since the plaintiff has accepted the partition, he cannot challenge the same. The impugned order in question or the order passed by the Trial Court permitting the amendment in the written statement. Learned counsel for the petitioners has failed to address this Court

why order of trial Court be interfered. Therefore no interference is warranted in the impugned order under Article 227 of the Constitution of India. Accordingly, the writ petition is dismissed.

Sd/-
Ag. Chief Justice

Kamde